

Chapter 296-19A WAC

VOCATIONAL REHABILITATION

(Amendments to Chapter 296-19A WAC)

WAC

DEFINITIONS		296-19A-190	How much is available for job modification assistance?
296-19A-010	Definitions.	296-19A-191	When may the department authorize pre-job accommodations?
GENERAL INFORMATION		296-19A-192	How much is available for pre-job accommodations?
296-19A-020	When may the department offer vocational rehabilitation services?	296-19A-193	What documentation must be submitted to the department for pre-job accommodations?
296-19A-025	What information does the department consider when exercising discretion?	296-19A-200	How does an employer apply for job modification assistance?
296-19A-030	What are the responsibilities of the parties?	QUALIFICATIONS	
296-19A-040	What vocational rehabilitation services require authorization?	296-19A-210	What are the qualifications to provide vocational rehabilitation services to industrially injured or ill workers?
DEPARTMENT VOCATIONAL REHABILITATION REFERRALS		296-19A-220	Can a vocational rehabilitation provider deliver vocational rehabilitation services pursuant to RCW 51.32.095 without receiving a provider number from the department?
296-19A-045	Which rules under "department vocational rehabilitation referrals" apply only to the department?	AUDITING AND OVERSIGHT	
296-19A-050	What are early intervention services?	296-19A-230	Why does the department audit vocational rehabilitation providers?
296-19A-060	What reports does the department require when early intervention services are provided at its request?	296-19A-240	What authority does the department have to audit vocational rehabilitation providers?
296-19A-065	What are ability to work assessment (AWA) services?	296-19A-245	What is the department's formal appeal process?
296-19A-070	What is an ability to work assessment?	296-19A-250	How much notice is the department required to give a vocational rehabilitation provider prior to an audit?
296-19A-080	How often must written progress reports be completed and submitted during assessment activities?	296-19A-260	What are the possible consequences for a provider that does not comply with RCW's, WACS, or department policies?
296-19A-090	What are vocational rehabilitation plan development services?	296-19A-270	In what situation(s) can the department take corrective action(s)?
296-19A-100	What reports does the department require when vocational rehabilitation plan development services are provided at its request?	296-19A-280	What criteria does the department use to evaluate a vocational rehabilitation provider's performance?
296-19A-110	What are vocational rehabilitation plan implementation and monitoring services?	296-19A-290	How does the department incorporate performance measurement into making referrals to providers?
296-19A-120	What reports does the department require when vocational rehabilitation plan implementation and monitoring services are provided at its request?	296-19A-300	How does the department evaluate performance when a vocational rehabilitation provider does not have either a performance rating with the department or previous experience delivering services to Washington injured workers?
296-19A-125	What is the purpose of forensic services?	296-19A-310	Are vocational rehabilitation providers entitled to referrals from the department?
296-19A-130	What are the requirements for a forensic evaluation?	296-19A-320	What other requirements are providers required to follow?
296-19A-135	What reports does the department require when forensic services are provided?	BILLING AND DOCUMENTATION	
296-19A-137	When can the department request a stand-alone job analysis?	296-19A-330	How does a vocational rehabilitation provider receive payment for services?
VOCATIONAL REHABILITATION TOOLS		296-19A-340	For what services will the department not pay?
296-19A-140	What information must a provider include in a labor market survey?		
296-19A-170	What information must a provider include in a job analysis?		
JOB MODIFICATION ASSISTANCE			
296-19A-180	When may the department authorize job modifications?		

CONTINUED NEXT PAGE...

- 296-19A-350 What are the requirements for case notes?
- 296-19A-360 What are the requirements for bills submitted to the department?
- 296-19A-370 What are the procedures for adjustments to provider bills?
- 296-19A-380 What are the procedures for rebilling?
- 296-19A-390 What are the procedures for repayment of excess payment of charges?
- 296-19A-400 What records are vocational rehabilitation providers required to maintain?

VOCATIONAL DISPUTES

- 296-19A-410 What is the purpose of the department's vocational dispute process?
- 296-19A-420 Who can dispute a vocational determination?
- 296-19A-430 Can a vocational rehabilitation provider dispute a vocational determination?
- 296-19A-440 What elements of a vocational determination may be disputed?
- 296-19A-450 What are the time frames for filing a dispute of a vocational determination with the department?
- 296-19A-460 What part of the department is charged with reviewing vocational disputes?
- 296-19A-470 What is the process for review of a vocational dispute?

EFFECTIVE DATES

- 296-19A-480 When must providers comply with these rules?

DEFINITIONS

WAC 296-19A-010 Definitions. (1) What does it mean to say an injured worker is employable?

- (a) "Employable" means having the skills and training that are commonly and currently necessary in the labor market to be capable of performing and obtaining gainful employment on a reasonably continuous basis when considering the worker's:
 - (i) Age, education, and experience;
 - (ii) Preexisting physical and mental limitations; and
 - (iii) Physical and mental limitations caused, at least in part, by the worker's industrial injury or occupational disease.
- (b) Physical and/or mental conditions that arose after the industrial injury/occupational disease that were not caused or aggravated by the industrial injury/occupational disease are not considered in determining whether the worker is employable under the Industrial Insurance Act.
- (c) If there are no physical or mental restrictions caused by the worker's industrial injury/occupational disease, the worker must be found employable under the Industrial Insurance Act.

(2) What are vocational rehabilitation services? Vocational rehabilitation services are those provided by a vocational rehabilitation provider and include, but are not limited to, the following:

- (a) Gathering industrially injured or ill workers' work and/or education histories and physical capacities information;
- (b) Assessing industrially injured or ill workers' employability;
- (c) Developing, documenting, and writing vocational rehabilitation plans;
- (d) Monitoring injured workers' progress during training;
- (e) Writing progress reports;
- (f) Analyzing and documenting the transferable skills of the injured worker and writing transferable skills analyses;
- (g) Performing occupational research;
- (h) Conducting labor market surveys and writing labor market survey reports;
- (i) Conducting and writing job analyses;
- (j) Communicating with industrially injured or ill workers, employers, physicians and others;
- (k) Developing job modifications and work site modifications, as well as pre-job accommodations, and writing reports for this work; and
- (l) All work done to obtain any job with any employer for injured workers referred for vocational rehabilitation services.

(3) What is a vocational rehabilitation provider (provider)? A provider is any person, firm, partnership, corporation, or other legal entity that provides vocational rehabilitation services to industrially injured or ill workers, pursuant to RCW 51.32.095. A provider must meet the qualifications listed in WAC 296-19A-210.

(4) What is an injured worker's labor market? Generally, the worker's relevant labor market is the geographic area where the worker was last gainfully employed. The labor market must be within a reasonable commuting distance and be consistent with the industrially injured or ill worker's physical and mental capacities. The exceptions to this rule are listed in the table below:

When a worker:	Then the department:
<ul style="list-style-type: none"> ➤ Relocates to a labor market other than at the time of injury and ➤ Returns to work and ➤ Suffers an aggravation of the work-related condition. 	Uses the labor market where the industrially injured or ill worker worked at the time of the aggravation. This applies whether the department closed and reopened the claim or whether the claim remained open during the period of aggravation.
<ul style="list-style-type: none"> ➤ Relocates after the industrial injury/illness or aggravation and ➤ Now lives in a labor market with more employment opportunities than where the industrially injured or ill worker worked at the time of injury. 	Uses the industrially injured or ill worker's current labor market. For example, an industrially injured or ill worker was injured in Forks but after the injury, moves to Tacoma. Provider would use Tacoma as the industrially injured or ill worker's labor market.
<ul style="list-style-type: none"> ➤ Relocates to a labor market other than at the time of injury or onset of illness and ➤ The move was proximately caused by the medical condition arising from the occupational injury or disease. 	Uses the injured or ill worker's current labor market. For example, an industrially injured or ill worker moves to a drier climate due to an accepted asthma condition. Provider would use the labor market in the drier climate.

- (5) **What is a labor market survey (LMS)?** It is a survey of employers in an industrially injured or ill worker's labor market to obtain specific information (such as physical demands and qualifications) related to job possibilities.
- (6) **What is a job analysis (JA)?** It is the gathering, evaluating, and recording of accurate, objective data about the characteristics of a particular job.
- (7) **What is a transferable skill?** Transferable skills are any combination of learned or demonstrated behavior, education, training, work traits, and work-related skills that can be readily applied by the worker. They are skills that are interchangeable among different jobs and workplaces. Non work-related talents or skills that are both demonstrated and applicable may also be considered.
- (8) **What is a transferable skills analysis?** It is a systematic study of the transferable skill or skills a worker has demonstrated to see if that skill set makes him/her employable.
- (9) **What are job modifications?** Job modifications are adjustments or alterations made to the way a job is performed to accommodate the restrictions imposed by an industrial injury or occupational disease. The purpose of job modification benefits is to encourage employers to modify jobs to retain or hire injured workers. Job modifications are used when an employer-employee relationship exists, and they may include worksite adjustment; job restructuring; and/or tools, equipment or appliances.
- (10) **What are pre-job accommodations?** Pre-job accommodations are adjustments or alterations made to the way a job is performed to accommodate the restrictions imposed by an industrial injury or occupational disease. The purpose of pre-job accommodation benefits is to make it possible for the worker to perform the essential functions of a job. Accommodations are used when an industrially injured or ill worker is engaged in a vocational rehabilitation plan or in a job search, and they may include tools, equipment or appliances.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-010, filed 5/12/03, effective 2/1/04.]

GENERAL INFORMATION

WAC 296-19A-020 When may the department offer vocational rehabilitation services? The department may, at its sole discretion, authorize vocational rehabilitation services that are necessary and likely to enable the industrially injured or ill worker to become employable.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-020, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-025 What information does the department consider when exercising discretion? In exercising its discretion the department considers, but is not limited to:

- (1) Whether the worker took advantage of and utilized vocational rehabilitation services offered in this or other claims;
- (2) The worker's ability and willingness to participate in and benefit from vocational rehabilitation services; and
- (3) The likelihood that the worker will be employable after the vocational rehabilitation services are completed.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-025, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-030 What are the responsibilities of the parties? All parties will have the following responsibilities in assisting the injured worker to become employable at gainful employment:

- (1) The attending physician shall maintain open communication with the industrially injured or ill worker's assigned vocational rehabilitation counselor and the referral source. The attending physician shall respond to any requests for information in a timely fashion and will do all that is possible to expedite the vocational rehabilitation process, including making an estimate of the worker's physical or mental capacities that affect the worker's employability.
- (2) The claims unit within the department shall notify the employer of the referral to a vocational rehabilitation provider.
- (3) The employer shall assist the vocational rehabilitation counselor in any way necessary to collect data regarding the former gainful employment of the injured worker. Further, the employer will assist the vocational rehabilitation counselor and attending physician to determine whether or not a modified job could be made available for employment of the injured worker.
- (4) The injured worker shall cooperate with all reasonable requests from all responsible individuals in determining

disability, developing and implementing the rehabilitation process. Should the injured worker fail to be cooperative, the sanctions as set out in RCW 51.32.110 shall be applied.

- (5) In assisting the injured worker to become employable at gainful employment, the provider is to follow the priorities as set out in RCW 51.32.095 and the requirements as set out in this chapter. This includes providing, upon request, copies of reports and attachments submitted to the referral source to the injured worker or their representative.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-030, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-040 What vocational rehabilitation services require authorization? All vocational rehabilitation services must be preauthorized. The department may make one or more of the following type of referrals: Early intervention; ability to work assessment ("AWA" or "assessment"); plan development; plan implementation; forensic services; or stand alone job analysis. Each referral is a separate authorization for vocational rehabilitation services.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-040, filed 5/12/03, effective 2/1/04.]

DEPARTMENT VOCATIONAL REHABILITATION REFERRALS

WAC 296-19A-045 Which rules under "department vocational rehabilitation referrals" apply only to the department? WAC 296-19A-050 through 296-19A-137 pertain to referrals for vocational rehabilitation services made by the department.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-045, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-050 What are early intervention services? Early intervention services are intended to help an industrially injured or ill worker return to work, or continue to work, for the employer of injury or the current employer. These services include, but are not limited to, the following:

- (1) Discussing early return to work options with the employer, worker, and attending physician;
- (2) Identifying return to work goals and barriers that may interfere with or prevent the industrially injured or ill worker from returning or continuing to work;
- (3) Assisting employers with offers of employment;
- (4) Planning and working with the referral source on necessary job modifications and pre-job accommodations;
- (5) Performing job analyses; and
- (6) Assessing the industrially injured or ill worker's need for preferred worker status and educating the worker on the preferred worker benefit, if appropriate.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-050, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-060 What reports does the department require when early intervention services are provided at its request? (1) Progress reports. The vocational rehabilitation provider must submit a written progress report to the department, and upon request, to the injured worker or the injured worker's representative, every thirty calendar days from the date of the electronic referral summarizing progress during the most recent reporting period. The progress report must include the following:

- (a) Summarized results of all contacts the provider had with the industrially injured or ill worker, employer of injury or current employer, and medical provider(s);
 - (b) Summary of all actions taken including progress on previously recommended actions;
 - (c) Identification and analysis of any barriers preventing completion of the referral; and
 - (d) Description of the specific actions the provider intends to take to overcome barriers and the expected time frame to complete those actions.
- (2) Closing reports. The provider must always submit an early intervention closing report at the conclusion of services. In the report the provider must include or address:
- (a) A brief description of the industrially injured or ill worker's work history;
 - (b) Summary of the industrially injured or ill worker's education, training, licenses, and certificates;

- (c) A medically reviewed job analysis for the job of injury and any other return to work options;
 - (d) Description of the worker's medical status and physical capacities;
 - (e) Indication of which return to work priority relates to the situation;
 - (f) Any other supporting documentation;
 - (g) The date the worker returned to work and the monthly salary or wage, or document attempts to obtain this information, if applicable;
 - (h) Documentation that no return to work options exist with the employer of injury or current employer, if applicable.
- (3) The provider must notify the department orally and in writing within two working days after learning of an unsuccessful return to work by the injured worker.
 - (4) The provider must notify the department orally and in writing within two working days after learning of a return to work by the injured worker.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-060, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-065 What are ability to work assessment (AWA) services? AWA services are used by the department to determine if an industrially injured or ill worker should receive vocational rehabilitation plan development services. AWA services may include, but are not limited to, the following:

- (1) Performing job analyses;
- (2) Conducting labor market surveys;
- (3) Assessing transferable skills;
- (4) Obtaining work restrictions;
- (5) Evaluating the injured worker's ability to work at the job of injury or any other job;
- (6) Coordinating with medical providers to obtain physical capacities and restriction information and a release to participate in vocational rehabilitation plan development services;
- (7) With authorization from the department, vocational testing may be used to evaluate the industrially injured or ill worker's ability to benefit from vocational rehabilitation services;
- (8) Assessing the industrially injured or ill worker's need for preferred worker status and educating the worker on the preferred worker benefit, if appropriate.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-065, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-070 What is an ability to work assessment? (1) The AWA report must include an evaluation of the industrially injured or ill worker's:

- (a) Age, education and experience;
 - (b) Transferable skills;
 - (c) Preexisting physical and mental conditions and the effect of those conditions on the worker's employability;
 - (d) Physical and mental conditions proximately caused by the worker's industrial injury or occupational disease and the effect of those conditions on the worker's employability;
 - (e) Wage at the time of injury;
 - (f) Work pattern;
 - (g) Significant barriers to employment;
 - (h) Labor market;
 - (i) Complete work history, addressing any gaps in employment, in addition to information about education level, courses or transcripts, licenses, certifications or registrations that the worker may have obtained in the past; and
 - (j) The report must address the first four return to work priorities set forth in RCW 51.32.095(2).
- (2) The AWA must also include one of the following recommendations:
 - (a) Able to work: The injured worker is employable at gainful employment. The report must include:
 - (i) Whether the worker is employable with the employer of injury or current employer, or if not, a list of job possibilities for which the worker is qualified;
 - (ii) A medically approved job analysis. When this is not obtainable, medically approved physical capacities information regarding the worker's ability to perform the job may be used; and
 - (iii) Labor market information supporting the provider's recommendation. Labor market information is not necessary when the injured worker is medically released to work for their job of injury at their previous work pattern;
 - (b) Further services appropriate: Vocational rehabilitation services are necessary and likely to enable the injured

worker to become employable at gainful employment. The report must include:

- (i) An analysis demonstrating how vocational rehabilitation plan development services are necessary and likely to enable the injured worker to become employable at gainful employment;
- (ii) The specific return to work possibilities investigated and the reasons why they were ruled out including labor market information when necessary; or
- (c) Further services not appropriate: The injured worker is not likely to benefit from vocational services. The report must include:
 - (i) An analysis explaining why vocational rehabilitation services are not appropriate;
 - (ii) Identifying barriers that will make it unlikely the worker will benefit from vocational rehabilitation services, consistent with the requirements in WAC 296-19A-010(1);
 - (iii) Medical, labor market, and/or other information, as necessary, supporting the provider's recommendations.
- (d) Return to work: The injured worker has returned to work. The report must specify and/or document attempts to obtain the following information:
 - (i) A description of the job the worker returned to;
 - (ii) The name of the employer;
 - (iii) The date that the worker returned to work;
 - (iv) The worker's monthly wages.
- (3) The provider must immediately inform the department orally if the worker has returned to work or if the provider has documentation that the worker is medically released without restrictions or has returned to work. The provider must follow the oral notification with written notification within two working days. The provider must attach documentation showing the worker was medically released to work without restrictions. Except for completing the closing report, the provider should not perform any other work on the AWA without the prior authorization of the referral source.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-070, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-080 How often must written progress reports be completed and submitted during assessment activities? The provider must submit a written progress report to the department, and upon request, to the injured worker or the injured worker's representative, every thirty calendar days from the date of the electronic referral summarizing progress during the most recent reporting period. The written progress report must include:

- (1) A detailed explanation why the AWA was not completed as of the date of the report;
- (2) A summary of all activities taken in the past thirty days, including progress on previously recommended actions;
- (3) Identification and analysis of any barriers preventing completion of the referral; and
- (4) A description of the specific actions the provider intends to take to overcome barriers and the expected time frame to complete those actions.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-080, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-090 What are vocational rehabilitation plan development services? Vocational rehabilitation plan development services are authorized to obtain the vocational rehabilitation provider's assistance in producing a vocational rehabilitation plan for an industrially injured or ill worker. The provider will work with the industrially injured or ill worker in the development of the plan. Covered services include, but are not limited to, the following:

- (1) Vocational counseling and occupational exploration;
- (2) Identifying job goal, training needs, resources, and expenses;
- (3) Vocational rehabilitation plan development services are authorized for the vocational rehabilitation provider to produce a recommended vocational rehabilitation plan for an industrially injured or ill worker;
- (4) Coordinating with medical providers to obtain physical capacities and restrictions information and a release to participate in a vocational rehabilitation plan;
- (5) Vocational testing; and
- (6) Identify, evaluate, and plan education and training resources, when necessary.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-090, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-100 What reports does the department require when vocational rehabilitation plan development services are provided at its request? (1) Progress reports. The vocational rehabilitation provider must submit a written progress report to the department, and upon request, to the injured worker or the injured worker's representative, every thirty calendar days from the date of the electronic referral summarizing progress during the most recent reporting period. The progress report must include the following:

- (a) Description of the return to work goals explored, accepted or ruled out;
 - (b) Review of the return to work priorities being addressed;
 - (c) Summary of all actions taken, including progress on previously recommended actions;
 - (d) Identification and analysis of any barriers preventing completion of the referral; and
 - (e) Description of the specific actions the provider intends to take to overcome barriers and the expected time frame to complete those actions.
- (2) Vocational rehabilitation plan. The provider must address the return to work priorities listed in RCW 51.32.095(2) in the plan and explain why each preceding priority would not help the industrially injured or ill worker return to work. The vocational plan must also include the following information:
- (a) An assessment of the industrially injured or ill worker's skills and abilities considering the industrially injured or ill worker's physical capacities and mental status, aptitudes and transferable skills gained through prior work experience, education, training and avocation;
 - (b) The services necessary to enable the industrially injured or ill worker to become employable in the labor market;
 - (c) Labor market survey supportive of the industrially injured or ill worker's employability upon plan completion;
 - (d) Documentation of the time and costs required for completion of the plan;
 - (e) A direct comparison of the industrially injured or ill worker's skills, both existing and those to be acquired through the plan, with potential types of employment to demonstrate a likelihood of plan success;
 - (f) A medically approved job analysis for the proposed retraining job goal;
 - (g) Any other information that may significantly affect the plan; and
 - (h) An agreement signed by the provider and industrially injured or ill worker that:
 - (i) Acknowledges that the provider and the industrially injured or ill worker have reviewed, understand and agree to the vocational rehabilitation plan; and
 - (ii) Sets forth the provider's and industrially injured or ill worker's responsibilities for the successful implementation and completion of the vocational rehabilitation plan.
- The provider must use a statement approved by, or substantially similar to a statement used by, the department in order to document this agreement.
- (3) Closing report. If the provider has to stop plan development before a rehabilitation plan is submitted and/or approved, submit a plan development closing report. The report must include:
- (a) A list of the reasons the provider cannot proceed with vocational rehabilitation plan development activities;
 - (b) Supporting documentation, such as: Goals researched, job analyses developed, and/or labor market research conducted; and
 - (c) Address whether or not further vocational rehabilitation services may be necessary and likely to enable the injured worker to become employable.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-100, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-110 What are vocational rehabilitation plan implementation and monitoring services? Vocational rehabilitation plan implementation and monitoring services are those services a vocational rehabilitation provider provides to assist an industrially injured or ill worker to successfully complete a vocational rehabilitation plan. These services may include, but are not limited to, the following:

- (1) Maintain sufficient contact with the industrially injured or ill worker, trainer and medical providers to make sure the worker successfully enters and progresses in the vocational rehabilitation plan;
- (2) Confirm that the industrially injured or ill worker has received all necessary equipment and supplies;
- (3) Contact the industrially injured or ill worker and trainer at least every thirty days to identify potential problems;
- (4) Notify the department if the plan needs to be interrupted;
- (5) Notify the department when the industrially injured or ill worker completes the plan;
- (6) Monitor the industrially injured or ill worker's progress and resolve any problems that might arise or address by submitting supporting documentation regarding why it cannot be brought to resolution;
- (7) Assisting in job search assistance prior to the completion of the vocational rehabilitation plan.
- (8) Document the industrially injured or ill worker's acquisition of skills; and

- (9) Notify the department if the plan needs to be terminated.
- (10) Obtain preferred worker status for worker, if appropriate.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-110, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-120 What reports does the department require when vocational rehabilitation plan implementation and monitoring services are provided at its request? (1) Progress reports. The vocational rehabilitation provider must submit a written progress report to the department, and upon request, to the injured worker or the injured worker's representative, every thirty calendar days from the date of the electronic referral summarizing progress during the most recent reporting period. The progress report must include the following:

- (a) Review of the industrially injured or ill worker's compliance with the vocational rehabilitation plan;
 - (b) A list of the dates the provider contacted the industrially injured or ill worker and training site;
 - (c) Description of the skills the worker has acquired so far and a comparison with the vocational rehabilitation plan;
 - (d) Summary of all actions taken in the past thirty days, including progress on previously recommended actions;
 - (e) Identification and analysis of any barriers preventing completion of the referral;
 - (f) Statement of whether the industrially injured or ill worker will complete the plan by the target plan end date.
- (2) Closing report. If the industrially injured or ill worker successfully completes the vocational rehabilitation plan, the closing report, at a minimum, must contain the following information:
- (a) An assessment of the industrially injured or ill worker's employability status at the time of closure;
 - (b) An assessment of the skills acquired by the industrially injured or ill worker as compared to the vocational rehabilitation plan;
 - (c) A statement as to whether or not the industrially injured or ill worker has returned to gainful employment; and
 - (d) The barriers, if any, to the industrially injured or ill worker's return to gainful employment.
- (3) If the industrially injured or ill worker does not successfully complete the vocational rehabilitation plan, the closing report, at a minimum, must contain the following information:
- (a) Explain why the vocational rehabilitation plan cannot be completed;
 - (b) Assess the industrially injured or ill worker's employability status at the time the plan stopped;
 - (c) Assess what skills the industrially injured or ill worker acquired and compare them to the vocational rehabilitation plan;
 - (d) Indicate whether or not the industrially injured or ill worker has returned to work. If so, list the job title, employer, and monthly salary;
 - (e) Describe any remaining barriers that may keep the industrially injured or ill worker from returning to work; and
 - (f) If the plan is terminated before the worker is employable, include a discussion of potential for return to this plan.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-120, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-125 What is the purpose of forensic services? The department may make a referral for forensic services to obtain an independent and objective evaluation of the vocational rehabilitation components of a complex claim. The department will only authorize a forensic evaluation when previous vocational referrals have not resolved an injured worker's vocational issues, except when necessary to make a determination regarding whether a deceased worker was totally and permanently disabled at the time of death. The forensic evaluation shall define what additional services, if any, are necessary and likely to enable an industrially injured or ill worker to become employable at gainful employment. A forensic evaluation shall also include collecting information relevant to making a vocational recommendation, according to the provisions in WAC 296-19A-130.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-125, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-130 What are the requirements for a forensic evaluation? (1) A forensic evaluation constitutes an analysis of prior vocational services and the medical conditions of an injured worker, including pre and post injury, to determine whether any further vocational services are necessary and likely to enable the injured worker to become employable at gainful employment. Services that may be conducted in order to make a recommendation to the department may include, but are not limited to:

- (a) Reviewing medical and vocational records;
 - (b) Obtaining, clarifying, and/or evaluating an industrially injured or ill worker's:
 - (i) Work and/or education history;
 - (ii) Skills, knowledge and aptitudes;
 - (iii) Physical capacities information related to the injury or other medical conditions;
 - (c) Identifying barriers to employment and possibilities for resolving the barriers;
 - (d) Identifying potential training needs and resources;
 - (e) Performing recommended services as needed to make a recommendation. These services may include conducting and writing job analyses, conducting labor market surveys, performing transferable skills analysis and performing occupational research.
- (2) Recommendations must address the return to work priorities in RCW 51.32.095(2) and be documented by providing evidence of previous services and/or services performed under this referral.
- (3) Development of a vocational rehabilitation plan is specifically precluded during a forensic evaluation.
- (4) Any vocational provider that has provided any vocational rehabilitation services to the industrially injured or ill worker may not receive a referral for a forensic evaluation of that industrially injured or ill worker. Any vocational provider who begins a forensic evaluation cannot receive further vocational referrals for that worker.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-130, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-135 What reports does the department require when forensic services are provided? A forensic evaluation requires thirty-day progress report(s) and a final report.

- (1) Progress reports. Each progress report must include:
- (a) A detailed explanation why the forensic referral was not completed as of the date of the report;
 - (b) A summary of all activities taken in the past thirty days, including progress on previously recommended actions;
 - (c) Identification and analysis of any barriers preventing completion of the referral; and
 - (d) A description of the specific actions the provider intends to take to overcome barriers and the expected time frame to complete those actions.
- (2) Final report. The final report must include recommendations and a recommended outcome. The report must comprehensively evaluate the vocational and medical aspects of the claim so that the adjudicator can make an appropriate vocational decision. The vocational provider must designate an outcome in the closing report when the forensic evaluation is complete. The recommendations may include, but are not limited to:
- (a) Able to work: The injured worker is employable at gainful employment. The report must include:
 - (i) Whether the worker is employable with the employer of injury or current employer, or if not, a list of job possibilities for which the worker is qualified;
 - (ii) A medically approved job analysis. When this is not obtainable, medically approved physical capacities information supporting the worker's ability to perform the job may be used; and
 - (iii) Labor market information supporting the provider's recommendation. Labor market information is not necessary when the injured worker is medically released to work for their job of injury at their previous work pattern.
 - (b) Further services appropriate: Vocational rehabilitation services are necessary and likely to enable the injured worker to become employable at gainful employment. The report must include:
 - (i) An analysis demonstrating how vocational rehabilitation plan development services are necessary and likely to enable the injured worker to become employable at gainful employment.
 - (ii) The specific return to work possibilities investigated and the reasons why they were ruled out, including labor market information when necessary.
 - (c) Further services not appropriate: The injured worker is not likely to benefit from vocational services. The report must include:
 - (i) An analysis explaining why vocational services are not appropriate;
 - (ii) Identifying barriers that will make it unlikely the worker will benefit from vocational services, consistent with the requirements in WAC 296-19A-010(1);
 - (iii) Medical, labor market, and/or other information, as necessary, supporting the provider's recommendations.

- (d) Return to work: The injured worker has returned to work. The report must specify and/or document attempts to obtain the following information:
 - (i) A description of the job the worker returned to;
 - (ii) The name of the employer;
 - (iii) The date that the worker returned to work;
 - (iv) The worker's monthly wages.
- (e) Further clarification of medical issues is needed. The vocational rehabilitation provider will identify issues impacting the vocational rehabilitation process and requiring clarification.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-135, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-137 When can the department request a stand-alone job analysis? The department can request a stand alone job analysis to analyze the requirements and characteristics of a job(s), an injured worker's ability to perform job functions and duties, and whether the injured worker requires further vocational rehabilitation services in order to become employable at gainful employment. Stand alone job analysis services are distinct services from any other referral type and may not be performed in conjunction with another referral for vocational rehabilitation services. A referral for a stand-alone job analysis may be made at any time while the claim is open or in provisional status. The provider shall conduct an on-site job analysis whenever possible. Stand-alone job analysis services must be completed and submitted to the department within fifteen calendar days of the referral assignment. The provider shall prepare a report addressing all elements set forth in WAC 296-19A-170.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-137, filed 5/12/03, effective 7/1/03.]

VOCATIONAL REHABILITATION TOOLS

WAC 296-19A-140 What information must a provider include in a labor market survey? (1) The following information must be included in a labor market survey that is submitted to the department as documentation in support of a vocational recommendation. This information must be presented in the form of a summary report and accompanied by the results of the individual employer contacts:

- (a) The specific job title surveyed and its DOT code. If the DOT code is not an accurate reflection/description of the job, then list the specific job surveyed, the occupational code and the source from which the occupational code was obtained;
 - (b) The name of the surveyor;
 - (c) A summary of all contacts and the dates of contact;
 - (d) A summary of whether or not the industrially injured or ill worker has the physical and mental/cognitive capacities to perform the job, based upon information from the attending physician or from a preponderance of medical information;
 - (e) A summary of whether the labor market matches the industrially injured or ill worker's work pattern;
 - (f) A summary of whether the labor market is considered positive or negative, as follows:
 - (i) If the labor market survey is conducted during an ability to work assessment, a labor market is considered positive if it shows that there are sufficient job opportunities in the worker's relevant labor market to enable the injured worker to become employable.
 - (ii) If the labor market is conducted during a plan development, a labor market is considered positive if it shows that jobs suitable for the injured worker for the proposed job goal exist in sufficient numbers to reasonably conclude that the worker will be employable at plan completion.
 - (g) Additional information may be presented in the summary, but only as a supplement to the labor market survey. Additional information may include, but is not limited to, published statistical data regarding occupations and projected job openings.
- (2) The following information must be obtained from the individual employer contacts and submitted to the department with the summary report. If the information is not available, the VRC should document attempts made to obtain the information and why it was not available.
- (a) The specific job title surveyed;
 - (b) All specific employer contacts, including their firm names, phone numbers, contact name and job title;
 - (c) Physical and mental/cognitive demands of the job in relation to the industrially injured or ill worker's physical and mental/cognitive capacities;

- (d) Minimum hiring requirements and the skills and training commonly and currently necessary to be gainfully employed in the job;
- (e) Work patterns;
- (f) Number of positions per job title;
- (g) Wage;
- (h) Date of last hire;
- (i) Number of current openings; and
- (j) An indication of whether each contact was considered positive or negative. The provider must include specific documentation to support why a contact was positive or negative for the recommended occupation or proposed vocational goal.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-140, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-170 What information must a provider include in a job analysis? When completing a job analysis, the vocational rehabilitation provider must:

- (1) Include identifying information on each page. This information includes the worker's name and claim number, and the specific job title surveyed and its DOT code. If the DOT code is not an accurate reflection/description of the job, then list the specific job surveyed, the occupational code and the source from which the occupational code was obtained;
- (2) Note the name of the vocational rehabilitation provider who completed the job analysis, where the provider completed the job analysis and the date of the job analysis. If the analysis is based on site specific information, include the employer name and employer contact person(s) name(s) with phone number(s);
- (3) Describe the essential functions and all other tasks required to perform the job. Essential job functions are the basic, necessary, and integral parts of a job performed by a worker;
- (4) List the tools and equipment required to do the job;
- (5) Evaluate and describe the skills required to perform the job;
- (6) Evaluate and describe the physical demands and their frequency required to perform the job, utilizing the physical demands listing consistent with the DOT. If the DOT does not represent an accurate reflection/description of the job, then list the specific job surveyed, the physical demands and the source from which the physical demands listing was obtained. The vocational rehabilitation provider should pay special attention to any job duties and physical demands that may be affected by the industrially injured or ill worker's condition;
- (7) Describe, if pertinent, any environmental hazards encountered on the job;
- (8) Describe possible modifications to the job for employer job offers or job modifications;
- (9) A section for medical approval, signature, and comments; and
- (10) The signature of the vocational rehabilitation provider presenting the job analysis for review and date signed.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-170, filed 5/12/03, effective 2/1/04.]

JOB MODIFICATION ASSISTANCE

WAC 296-19A-180 When may the department authorize job modifications? As provided for in section 13, chapter 63, Laws of 1982 (RCW 51.32.250), the supervisor or supervisor's designee, in his or her discretion, may authorize job modifications when the following criteria are met:

- (1) The claim is open or in statutory pension status; and
- (2) Due to the restrictions related to the accepted industrial condition to the worker:
 - (a) Is in a light-duty job (graduated or transitional) and the modification is necessary to return the worker to the job of injury or a new job; or
 - (b) Is off work and the modification is necessary to return the worker to the job of injury or a new job; and
- (3) An employer-employee relationship exists.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-180, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-190 How much is available for job modification assistance? An amount not to exceed five thousand dollars from the department is available per worker per job or job site. If combined with pre-job accommodations for the same return to work goal, the maximum combined benefit available for job modification and pre-job accommodation is five thousand dollars. The employer may add to this amount with its own contribution.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-190, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-191 When may the department authorize pre-job accommodations? As provided for in RCW 51.32.095(4), the supervisor or the supervisor's designee, in his or her discretion, may authorize pre-job accommodations when the following criteria are met:

- (1) The claim is open or in statutory pension status; and
- (2) The injured worker's attending doctor certifies that the pre-job accommodations are medically necessary due to the effects of the accepted industrial condition; and
- (3) The pre-job accommodation is medically necessary to enable the industrially injured or ill worker to:
 - (a) Participate in an approved retraining program; or
 - (b) Perform the essential functions of a job or a return to work goal in which the worker is seeking employment consistent with a completed retraining plan or the recommendations of an ability to work assessment; and
- (4) No employer-employee relationship exists.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-191, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-192 How much is available for pre-job accommodations? An amount not to exceed five thousand dollars from the department is available per worker per claim. If combined with job modifications for the same return to work goal, the maximum combined benefit available for job modification and pre-job accommodation is five thousand dollars.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-192, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-193 What documentation must be submitted to the department for pre-job accommodations?

- (1) A vocational provider assisting the injured worker in applying for pre-job accommodation assistance must submit to the department a pre-job accommodation assistance application. Pre-job accommodations assistance applications shall be submitted on a form prescribed by the department.
- (2) The pre-job accommodation assistance application shall include, but is not limited to:
 - (a) A document supporting the need for pre-job accommodation;
 - (b) A description of the pre-job accommodation;
 - (c) An itemized account of each expense to be incurred in the pre-job accommodation;
 - (d) An ownership agreement;
 - (e) Physician's certification of medical necessity.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-193, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-200 How does an employer apply for job modification assistance? (1) An employer requesting job modification assistance must submit to the department a job modification assistance application. A vocational provider may assist the employer with the application.

- (2) The job modification assistance application shall include, but not be limited to:
 - (a) A document supporting the need for job modification;
 - (b) A description of the job modification;

- (c) An itemized account of each expense to be incurred in the job modification. Job modification assistance applications shall be submitted on a form prescribed by the department; and
- (d) An ownership agreement.
- (3) The supervisor or supervisor's designee shall accept, reject or modify the job modification application within thirty days of receipt. Notification of the supervisor's acceptance, rejection, or modification shall be in writing.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-200, filed 5/12/03, effective 2/1/04.]

QUALIFICATIONS

WAC 296-19A-210 What are the qualifications to provide vocational rehabilitation services to industrially injured or ill workers? Provider community commentary, expert opinion and best practices suggest that there is a correlation between a higher quality level of vocational rehabilitation services and higher qualifications of vocational rehabilitation providers. To ensure the provision of the highest possible quality of vocational rehabilitation services, the department shall only issue a provider number to persons, firms, partnerships, corporations, and other legal entities that meet the following qualification requirements:

- (1) Vocational rehabilitation counselor (VRC).
- (a) VRCs not registered with the department and applying for a provider number with the department effective on or after December 1, 2000, must meet the following minimum qualifications:

Education Masters Degree	Experience 1 year full-time industrial insurance experience	Certification and CRC or CDMS or ABVE
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OR

Bachelors Degree	2 years full-time industrial insurance experience	and CRC or CDMS
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CRC .= Certified Rehabilitation Counselor

CDMS .= Certified Disability Management Specialist

ABVE .= American Board of Vocational Experts

- (b) VRCs registered with the department as of November 30, 2000, will be required to meet the qualification criteria in (a) of this subsection no later than November 30, 2010.
- (c) The VRC assigned to or directly receiving the referral from the referral source is responsible for all work performed by any vocational provider on that referral.
- (2) VRC supervisor.
 - (a) In order to supervise interns providing vocational rehabilitation services to industrially injured or ill workers beginning on or after December 1, 2000, the VRC(//)supervisor must provide proof of five years full-time experience providing direct vocational services to Washington state injured workers. The VRC supervisor must meet all of the qualification requirements in subsection (1) of this section.
 - (b) Supervisors registered with the department as of November 30, 2000, will be required to meet the qualification criteria in (a) of this subsection no later than November 30, 2010.
 - (c) The VRC supervisor is responsible for ensuring that all work performed by an intern for the department or self-insurer conforms with Title 51 RCW, department rules and department policies.
- (3) Forensic services--In order to provide forensic services to the department, on or after the effective date of this rule, a VRC must provide proof of five years full-time experience providing direct vocational services to Washington state industrially injured or ill workers, and must possess a CRC or ABVE certification. Vocational providers previously approved to provide this service, under chapter 296-19A WAC, will retain that status.

- (4) Intern.
- (a) Interns not registered with the department and applying for a provider number with the department on or after December 1, 2000, must meet the following minimum qualifications:

Degree	Internship Length
Masters Degree in field acceptable to CRC or CDMS or ABVE	Equal to required experience to obtain CRC or CDMS or ABVE certification including at least 1 year working with industrially injured or ill workers.

OR

Bachelors Degree in field acceptable by CDMS	Equal to required experience to obtain CDMS certification including at least 2 years working with industrially injured or ill workers.
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- (b) Interns not registered with the department and applying for a provider number with the department on or after December 1, 2000, must obtain one of the required VRC certifications within one year of completing their required internship. Interns will remain in internship status during this time frame.
- (c) Interns registered with the department as of November 30, 2000, will be required to apply for a provider number with the department and may work as an intern until the end of their current internship. Upon completion of the internship the intern may submit an application to the department as a VRC. These providers must obtain one of the required VRC certifications by November 30, 2010.
- (d) All interns are required to conform to Title 51 RCW, department rules, and department policies. All interns granted a provider number by the department must be supervised by a VRC supervisor.
- (e) No person shall serve as an intern under these rules for more than seventy-two months of full-time experience, or its equivalent, working with industrially injured or ill workers. The intern must notify the department when there is a change in the status of an internship.
- (5) Interns may not receive referrals directly from the department or self-insured employers. Interns may perform aspects of vocational rehabilitation services under the supervision of a VRC supervisor.
- (6) Providers who receive or are assigned referrals must comply with all electronic security requirements in place for accessing department files.
- (7) Providers registered with the department as of November 30, 2000, who do not meet the above qualification requirements within the ten-year period will no longer be eligible to provide vocational rehabilitation services to industrially injured or ill workers and the department will terminate their provider number(s).
- (8) Business requirements.
- (a) Providers must comply with all federal and state laws, regulations and other requirements with regard to business operations. In order to be eligible to receive referrals from the department, providers must satisfy the requirements set forth in this subsection in every service location in which they wish to operate.
- (b) Providers must be covered by general liability insurance, automobile liability insurance, errors and omission insurance, malpractice insurance, and industrial insurance if required by Title 51 RCW.
- (c) Providers must have services and facilities that provide injured workers a private and professionally suitable location in which to discuss vocational rehabilitation services issues. In order to be eligible to receive referrals from the department, providers must satisfy the requirements set forth in this subsection in every service location in which they wish to operate.
- (d) Providers must have telephone-answering capability during regular business hours, Monday through Friday. In order to be eligible to receive referrals from the department, providers must satisfy the requirements set forth in this subsection in every service location in which they wish to operate.
- (e) In order to receive referrals made by the department, providers must maintain or have access to equipment that can utilize the department's remote access system for transmitting vocational referrals.
- (9) The department may assign a provider number to a vocational rehabilitation firm, partnership, corporation or other legal entity so long as substantial control over the daily management of the vocational rehabilitation firm, partnership, corporation or other legal entity is performed by a VRC that satisfies the qualifications set forth in this rule.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-210, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-220 Can a vocational rehabilitation provider deliver vocational rehabilitation services pursuant to RCW 51.32.095 without receiving a provider number from the department? No. The department may only issue provider numbers to persons, firms, partnerships, corporations and other legal entities that satisfy the qualification requirements in WAC 296-19A-210.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-220, filed 5/12/03, effective 2/1/04.]

AUDITING AND OVERSIGHT

WAC 296-19A-230 Why does the department audit vocational rehabilitation providers? The department audits providers to:

- (1) Ensure that the provider is providing services conforming to accepted standards of service;
- (2) Ensure compliance with the Revised Code of Washington, the Washington Administrative Code, and department policies governing vocational rehabilitation services.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-230, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-240 What authority does the department have to audit vocational rehabilitation providers?

The department has the authority to:

- (1) Conduct audits of a provider, either for cause or at random;
- (2) Conduct audits at a provider's place of business using copies and originals of all files and records maintained by the provider;
- (3) Conduct audits away from a provider's place of business, using copies of all files and records supplied by the provider;
- (4) Require a provider to submit legible copies of all files and records requested for audit;
- (5) When the department requires the provider to submit copies of records and files to the department, the provider shall submit the requested material within thirty calendar days of the request;
- (6) Inspect and audit all of the provider's vocational rehabilitation files and records relating to services delivered under Title 51 RCW;
- (7) Inspect and audit a provider's documentation supporting charges billed for vocational rehabilitation services delivered.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-240, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-245 What is the department's formal appeal process? For information regarding the formal appeals process refer to chapter 51.52 RCW.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-245, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-250 How much notice is the department required to give a vocational rehabilitation provider prior to an audit? The department will give ten working days' written notification to a provider before starting an audit.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-250, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-260 What are the possible consequences for a provider that does not comply with the RCWs, WACs, or department policies? The department may order corrective action(s) when it determines that a provider is not in compliance with department statute, rule, or written department policy. Possible corrective actions include, but are not limited to:

- (1) Submission and implementation of a written corrective action by the provider showing how the provider will come into compliance;
- (2) Recoupment of payments, plus interest, made to the provider;

- (3) Requirement that the provider satisfactorily complete remedial education courses and/or other educational or training programs;
- (4) Suspension or termination of a provider's provider number and ability to receive payment for vocational rehabilitation services rendered to industrially injured or ill workers under the Industrial Insurance Act;
- (5) Rejection of a provider's application to provide vocational rehabilitation services to industrially injured or ill workers under the Industrial Insurance Act;
- (6) Denial or rejection of a request for payment submitted by or on behalf of the provider;
- (7) Placement of the provider on prepayment review status requiring the submission of supporting documents prior to payment;
- (8) Assessment of penalties.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-260, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-270 In what situation(s) can the department take corrective action(s)? (1) Reasons the department can order corrective actions against a vocational rehabilitation provider include, but are not limited to, the following:

- (a) Charging the department for services that do not contribute to the completion of a vocational referral, including, but not limited to:
 - (i) Preparation and submission of job analyses during plan development for jobs that are beyond the worker's documented or expected capacities and physical abilities as demonstrated by the medical information in the file at the time the job analysis was performed;
 - (ii) Preparation and submission of job analyses or labor market surveys during early intervention or assessment that are not supported by the injured worker's education, work history and/or transferable skills as demonstrated by the information in the file at the time the job analysis and/or labor market survey was performed;
 - (iii) Hand delivery of records when other less expensive means of delivery are reasonably appropriate and available;
 - (b) Commission of an act involving moral turpitude, dishonesty, or corruption relating to the provision of vocational rehabilitation services whether the act constitutes a crime or not;
 - (c) Misrepresentation or concealment of a material fact in obtaining a department provider number, or in response to any request for information about service delivery made by the department;
 - (d) Provision of vocational rehabilitation services without having a department provider number;
 - (e) Use of persons that do not possess a department provider number to deliver vocational rehabilitation services;
 - (f) Operation of a vocational firm, partnership, corporation, or other legal entity in violation of the business requirements set forth in RCW, WAC, or written department policy;
 - (g) Use of false, fraudulent, or misleading advertising;
 - (h) Commission of any incompetent or negligent action which presents the significant risk of resulting in harm to an industrially injured or ill worker, the referral source, or an employer;
 - (i) Submission of a false or misleading report or document as part of delivering vocational rehabilitation services;
 - (j) Failure to supervise a vocational rehabilitation intern in accordance with RCW, WAC, or written department policy;
 - (k) Failure to comply with any order issued by the department;
 - (l) Disclosure of confidential information on vocational rehabilitation services to a person who is not entitled to it;
 - (m) Unauthorized disclosure of confidential claim information, including, but not limited to, private health care information;
 - (n) Charges an industrially injured or ill worker or employer a fee for delivering vocational rehabilitation services on a referral from the referral source; and
 - (o) Bills an industrially injured or ill worker or state fund employer for providing services under the Industrial Insurance Act.
- (2) The department can take corrective action(s) for other violations of RCW, WAC, or written department policy not specifically mentioned above.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-270, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-280 What criteria does the department use to evaluate a vocational rehabilitation provider's performance? The department must make referrals for vocational rehabilitation services based on the vocational rehabilitation provider's performance. The performance measurement factors for vocational rehabilitation providers will include, but not be limited to:

- (1) Cost for services delivered;
- (2) Length of time taken to provide the services;
- (3) The outcome of the vocational rehabilitation services;
- (4) Complexity of cases referred; and
- (5) Whether the vocational rehabilitation services conformed with department rules and accepted standards of good practice.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-280, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-290 How does the department incorporate performance measurement into making referrals to providers? Based on WAC 296-19A-280, the department will generate periodic performance ratings for vocational rehabilitation providers. The performance ratings will be the method used for making referrals from the department to vocational rehabilitation providers based on quality and effectiveness.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-290, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-300 How does the department evaluate performance when a vocational rehabilitation provider does not have either a performance rating with the department or previous experience delivering services to Washington injured workers? (1) Several situations exist in which a vocational rehabilitation provider may not have a performance rating with the department or may not have sufficient experience with Washington industrially injured or ill workers covered by the department to establish a performance rating.

- (2) Provider community commentary, expert opinion and best practices suggest that there is a correlation between a higher level of vocational rehabilitation services and higher qualifications of vocational rehabilitation providers. Based upon this information, the department concludes that referrals to providers who satisfy these minimum qualification criteria set forth in WAC 296-19A-210 (1)(a), but who do not have a performance rating with the department, may be appropriate. The department will ensure that these providers are complying with department statutes, rules, and policies and furnishing a high level of service through close and continued monitoring. The department may consider making referrals to vocational rehabilitation providers, on a trial basis, for whom the department does not have performance rating data, under the following circumstances:
 - (a) The provider fulfills the qualification requirements set forth in WAC 296-19A-210 (1)(a); and
 - (b) The department may consider making referrals sufficient to develop a reliable performance rating.
- (3) If the department elects to refer and monitor a limited number of cases to the provider(s) in order to evaluate a provider's performance and develop performance rating, the department makes no guarantee of future referrals to the provider.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-300, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-310 Are vocational rehabilitation providers entitled to referrals from the department? The department or self-insured employer refers industrially injured or ill workers for vocational rehabilitation services at their sole discretion. No provider is entitled to referrals from the referral source.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-310, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-320 What other requirements are providers required to follow? By rendering vocational rehabilitation services to industrially injured or ill workers under RCW 51.32.095, the vocational rehabilitation provider agrees to comply with Title 51 RCW, chapters 296-19A and 296-15 WAC, and the department's fee schedule.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-320, filed 5/12/03, effective 2/1/04.]

BILLING AND DOCUMENTATION

WAC 296-19A-330 How does a vocational rehabilitation provider receive payment for services? All providers must apply for and receive a provider number from the department in order to bill the department and get paid for providing vocational rehabilitation services to industrially injured or ill workers. More detailed billing instructions for vocational rehabilitation services are available from the department.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-330, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-340 For what services will the department not pay? The following services are considered overhead and the department will not pay for these services:

- (1) Administrative and supervisory salaries and related personnel expenses;
- (2) Office rent;
- (3) Depreciation;
- (4) Equipment purchase and rental;
- (5) Telephone expenses including long distance phone call charges;
- (6) Postage;
- (7) Shipping;
- (8) Expendable supplies;
- (9) Printing costs;
- (10) Copier costs;
- (11) Printing of fiche and department electronic files;
- (12) Maintenance and repair;
- (13) Taxes;
- (14) Automobile costs and maintenance;
- (15) Insurance;
- (16) Dues and subscriptions;
- (17) Vacation, sick leave, and other expenses of a similar nature;
- (18) Internal staffing time;
- (19) Filing of material in case files;
- (20) Setting up files;
- (21) Activities associated with reports other than composing or dictating complete draft of the report (e.g., editing, filing, distribution, revising, typing, and mailing);
- (22) Generating and keeping internal record keeping forms;
- (23) Time spent on any administrative and clerical activity, including typing, copying, mailing, distributing, filing, payroll, record keeping, delivering mail, picking up mail;
- (24) Activities associated with counselor training, general discussion regarding office procedures, internal case file reviews by supervisors, meetings, and seminars;
- (25) Unanswered phone calls; and
- (26) Any other item or service not specifically identified and separately billable.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-340, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-350 What are the requirements for case notes? Vocational rehabilitation providers must maintain case notes. Case notes must:

- (1) Include the first and last name of the industrially injured or ill worker being served and the worker's claim number at the top of each page;
- (2) Include the first and last name of the vocational rehabilitation provider providing each service documented on each page;
- (3) Be kept in a claimant file corresponding to the reports, medical information, correspondence, and other materials that they provide documentation for;
- (4) Testing and other records with special confidentiality requirements may be kept in separate files;
- (5) Be legible;
- (6) Be in chronological order;
- (7) Record the date each service was provided month month/day day/year year;
- (8) For providers who bill for vocational services, include the amount of time, recorded in tenths of an hour, required to provide each service;
- (9) Describe each service sufficiently to allow the referral source to verify the purpose, level, type, and outcome of each service provided and substantiate the charges billed for them.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-350, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-360 What are the requirements for bills submitted to the department? (1) Any bill a provider submits to the department must include the following information:

- (a) Worker's name;
- (b) Worker's claim number;
- (c) Vocational referral number;
- (d) Dates of service;
- (e) Place of service;
- (f) Type of service;
- (g) Appropriate procedure code(s);
- (h) Charge;
- (i) Units of service;
- (j) Total bill charge;
- (k) The name and the department-assigned provider ID of the counselor or intern rendering the services;
- (l) Provider number of the payee;
- (m) Date of billing;
- (n) Submission of any supporting documentation required under other sections of this chapter.
- (2) Itemize the bills on department approved forms. A vocational rehabilitation provider may transmit the bills electronically if the provider uses department file format specifications. If the provider uses any of the electronic transfer options, the provider must follow department instructions for electronic billing.
- (3) The provider must bill using procedure codes, fees, and methods provided by the department. The department will publish codes, fees, and procedures and provide this information to all vocational rehabilitation providers receiving department referrals. The department will establish fees at regular intervals.
- (4) Document all billed charges and justify the type, level and extent of services in the case notes. A provider's billed charges must be consistent with the services provided. The department may reduce, deny, or recoup payment whenever case notes fail to document billed charges or services provided.
- (5) It is the vocational rehabilitation provider's responsibility to make sure the charges billed are complete and accurate, even if a third party is actually performing the billing.
- (6) The vocational rehabilitation provider is encouraged to bill every two weeks. The department must receive bills within one year of the date of service to be eligible for payment.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-360, filed 9/1/00, effective 6/1/01.]

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-360, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-370 What are the procedures for adjustments to provider bills? (1) The department or self-insurer may adjust payment of charges when appropriate. The department or self-insurer must provide a written explanation of why they adjusted a billing or line item of a bill when they make any adjustment. In cases where the department is the referral source, it will not give the provider a written explanation if the department made the adjustment solely to conform to its maximum allowable fees.

(2) The department or self-insurer must receive any inquiries about a bill adjustment within ninety days from the date of payment to be considered. All provider inquiries must be in the required format.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-370, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-380 What are the procedures for rebilling? (1) If a provider does not receive payment or notification from the department within one hundred twenty days, he or she may rebill for services.

(2) Rebills should be identical to the original bill: Same charges, codes, and billing date.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-380, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-390 What are the procedures for repayment of excess payment of charges? (1) When a vocational rehabilitation provider receives a payment to which that provider is not entitled, the provider must repay the excess amount, plus accrued interest, without regard to whether the excess payment occurred due to provider or department error or oversight.

(2) Interest accrues on excess payments at the rate of one percent per month or portion of a month beginning on the thirty-first day after payment was made. Where partial repayment on an excess payment is made, interest accrues on the remaining balance.

(3) The department reserves the option of either requesting the provider to remit the amount of excess payment and accrued interest to the department or offsetting excess payments and accrued interest against future payments due the provider.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-390, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-400 What records are vocational rehabilitation providers required to maintain? (1) A vocational rehabilitation provider must maintain adequate documentation in claimant-specific files to verify the level, type, and extent of the vocational rehabilitation services provided to and on behalf of industrially injured or ill workers.

(2) A vocational rehabilitation provider who requests payment from the referral source for vocational rehabilitation services must maintain all records necessary for the director's authorized auditors to audit the provision of services. Providers need to keep all records necessary to disclose the specific nature and extent of all services provided for an industrially injured or ill worker, along with the amounts billed to the department, for those services. Records must be maintained for audit purposes for a minimum of five years from the date of closure by the provider.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-400, filed 5/12/03, effective 2/1/04.]

VOCATIONAL DISPUTES

WAC 296-19A-410 What is the purpose of the department's vocational dispute process? The purpose is to avoid delays in vocational rehabilitation services by resolving disputes between industrially injured or ill workers, employers and the referral source.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-410, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-420 Who can dispute a vocational determination? The following parties are authorized to dispute a vocational determination made by the referral source:

- (1) An industrially injured or ill worker;
- (2) An employer; or
- (3) The representative of an industrially injured or ill worker or employer.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-420, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-430 Can a vocational rehabilitation provider dispute a vocational determination? A vocational rehabilitation provider cannot dispute a vocational determination.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-430, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-440 What elements of a vocational determination may be disputed? (1) A finding that an industrially injured or ill worker is eligible for vocational rehabilitation services, or a finding that he or she is ineligible for vocational rehabilitation services, may be disputed.

- (2) An approved vocational rehabilitation plan may also be disputed.
- (3) An approved plan modification may also be disputed.
- (4) A previously approved vocational rehabilitation plan may not be disputed through a plan modification dispute process.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-440, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-450 What are the time frames for filing a dispute of a vocational determination with the department? The department must receive the written dispute within fifteen calendar days of receipt of notification to the worker or employer. The dispute must explain the reason(s) for the disagreement with the determination. The department may accept the dispute if it is not received within the fifteen-day period if there is a demonstrated good cause for the delay.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-450, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-460 What part of the department is charged with reviewing vocational disputes? The vocational dispute resolution office (VDRO) consultant reviews disputes of vocational determinations and makes a recommendation to the director, who makes a final decision. Disputes should be sent to the director, in care of the VDRO.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-460, filed 5/12/03, effective 2/1/04.]

WAC 296-19A-470 What is the process for review of a vocational dispute? VDRO will review the written dispute and issue an acceptance letter, which will be sent to all parties. If the department does not accept your dispute, the letter will explain the reason(s) for the rejection. A copy of this letter, along with the written dispute, will be sent to all involved parties.

The director, at his or her sole discretion, will initiate a review of an accepted dispute to determine further action. If necessary, and at the discretion of the director, VDRO staff will contact the parties to attempt to resolve the dispute. If the dispute is not resolved, the director in his or her sole discretion will take other action that he or she considers appropriate to protect the rights of the parties. The director will promptly inform all parties, in writing, of what action is taken.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.32.095, 51.36.100, 51.36.110. 00-18-078, § 296-19A-470, filed 5/12/03, effective 2/1/04.]

EFFECTIVE DATES

WAC 296-19A-480 When must providers comply with these rules? (1) The amendments to the following section of chapter 296-19A WAC becomes effective on July 1, 2003:

WAC 296-19A-137 "When can the department request a stand alone job analysis?"

(2) The following amendments to chapter 296-19A WAC and new sections become effective February 1, 2004:

WAC 296-19A-010 "Definitions."

WAC 296-19A-020 "When may the department offer vocational rehabilitation services?"

WAC 296-19A-025 "What information does the department consider when exercising discretion?"

WAC 296-19A-030 "What are the responsibilities of the parties?"

WAC 296-19A-040 "What vocational rehabilitation services require authorization?"

WAC 296-19A-045 "Which rules under 'department vocational rehabilitation referrals' apply only to the department?"

WAC 296-19A-060 "What reports does the department require when early intervention services are provided at its request?"

WAC 296-19A-065 "What are ability to work assessment (AWA) services?"

WAC 296-19A-070 "What is an ability to work assessment?"

WAC 296-19A-080 "How often must written progress reports be completed and submitted during assessment activities?"

WAC 296-19A-090 "What are vocational rehabilitation plan development services?"

WAC 296-19A-100 "What reports does the department require when vocational rehabilitation plan development services are provided at its request?"

WAC 296-19A-110 "What are vocational rehabilitation plan implementation and monitoring services?"

WAC 296-19A-120 "What reports does the department require when vocational rehabilitation plan implementation and monitoring services are provided at its request?"

WAC 296-19A-125 "What is the purpose of forensic services?"

WAC 296-19A-130 "What are the requirements for a forensic evaluation?"

WAC 296-19A-135 "What reports does the department require when forensic services are provided?"

WAC 296-19A-140 "What information must a provider include in a labor market survey?"

WAC 296-19A-170 "What information must a provider include in a job analysis?"

WAC 296-19A-180 "What job modification assistance benefits are available?"

WAC 296-19A-190 "How much is available for job modification assistance?"

WAC 296-19A-191 "What pre-job accommodations are available?"

WAC 296-19A-192 "How much is available for pre-job accommodations?"

WAC 296-19A-193 "What are the requirements for pre-job accommodations?"

WAC 296-19A-200 "How does an employer apply for job modification assistance?"

WAC 296-19A-210 "What are the qualifications to provide vocational rehabilitation services to industrially injured or ill workers?"

WAC 296-19A-230 "Why does the department audit vocational rehabilitation providers?"

WAC 296-19A-240 "What authority does the department have to audit vocational rehabilitation providers?"

WAC 296-19A-245 "What is the department's formal appeal process?"

WAC 296-19A-260 "What are the possible consequences for a provider that does not comply with the RCWs, WACs or department policies?"

WAC 296-19A-270 "In what situation(s) can the department take corrective action(s)?"

WAC 296-19A-300 "How does the department evaluate performance when a vocational rehabilitation provider does not have either a performance rating with the department or previous experience delivering services to Washington injured workers?"

WAC 296-19A-350 "What are the requirements for case notes?"

WAC 296-19A-400 "What records are vocational rehabilitation providers required to maintain?"

WAC 296-19A-440 "What elements of a vocational determination may be disputed?"

(3) All remaining sections of chapter 296-19A WAC shall remain in full force and effect.